

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW CHANNON,

Plaintiff,

v.

No. 1:24-cv-01124-SCY

LIBERATION DISTRIBUTION, LLC, and
INSPERITY, INC., d.b.a.
ADMINISTAFF COMPANIES INC GP LTD,

Defendants.

**ORDER GRANTING APPLICATION TO PROCEED *IN FORMA PAUPERIS*
AND ORDER FOR DEFENDANTS' ADDRESSES FOR SERVICE**

THIS MATTER comes before the Court on *pro se* Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed November 4, 2024, and Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), Doc. 7, filed November 12, 2024.

Application to Proceed *in forma pauperis*

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed *in forma pauperis*, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962). “The statute [allowing a litigant to proceed *in forma pauperis*] was intended

for the benefit of those too poor to pay or give security for costs....” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.

Plaintiff filed a motion to proceed *in forma pauperis* using an Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)” (“Short Form Application”). *See* Doc. 2, filed November 4, 2024. The Court notified Plaintiff that the Short Form Application does not provide sufficient information for the Court to determine whether a plaintiff is unable to pay the required fees and ordered Plaintiff to file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (“Long Form Application”). *See* Order to Cure Deficiency, Doc. 6, filed November 5, 2024.

The Court grants Plaintiff’s Long Form Application. Plaintiff signed an affidavit stating he is unable to pay the costs of these proceedings and stated: (i) his average monthly income amount during the past 12 months is \$1,700.00; (ii) his monthly expenses total \$5,615.00; and (iii) his minor son relies on Plaintiff for support. The Court finds that Plaintiff is unable to pay the costs of this proceeding because Plaintiff signed an affidavit stating he is unable to pay the costs of these proceedings, Plaintiff’s monthly expenses exceed his monthly income, and Plaintiff’s minor son relies on Plaintiff for support. Because it is granting Plaintiff’s Long Form Application, the Court denies Plaintiff’s Short Form Application as moot.

Order for Defendants’ Addresses for Service

Section 1915 provides that the “officers of the court shall issue and serve all process, and perform all duties in [proceedings *in forma pauperis*]”). 28 U.S.C. § 1915(d). The Court cannot

order service at this time because Plaintiff has not provided Defendants' addresses for service. The Court orders Plaintiff to file a motion for service which includes the service address of each Defendant.

IT IS ORDERED that:

- (i) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), Doc. 7, filed November 12, 2024, is **GRANTED**.
- (ii) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed November 4, 2024, is **DENIED as moot**.
- (iii) Plaintiff shall, within 21 days of entry of this Order, file a motion for service which includes the service address of each Defendant. Failure to timely file the motion may result in dismissal of this case.


UNITED STATES MAGISTRATE JUDGE